

2017 ASR EXTENSION AGREEMENT

Between

DePuy Orthopaedics, Inc.

And

The Counsel Listed on the Signature Pages Hereto

Dated As Of March 3, 2017

**Extension of the 2015 ASR Settlement Agreement
with Certain Amendments (2017 Extension Agreement)**

1. This agreement is between (i) DePuy Orthopaedics, Inc., an Indiana corporation (together with its successors and assigns, “DePuy”), and (ii) the counsel listed in the signature pages hereto under the heading “Settlement Oversight Committee” (collectively, the “SOC”; the SOC and DePuy, each a “Party” and collectively the “Parties”) to memorialize our agreement to extend the terms and conditions of the 2015 ASR Settlement Agreement dated as of March 2, 2015 (“2015 ASR Settlement Agreement”) and to modify and amend certain provisions of that agreement only in connection with this extension (“2017 Extension Agreement” or “2017 Program”) and only for those who participate in the 2017 Program, as set forth below.
2. It is anticipated that the 2017 Extension Agreement may apply to approximately 900 Potential Qualified U.S. Claimants (“PQUSC”). Plaintiffs’ counsel shall supplement their Registration Declarations within 30 days of the Effective Date of this 2017 Extension Agreement and shall include, *inter alia*, all potential claimants under the 2017 Program.
3. Nothing herein shall be construed as an admission of any wrongdoing or liability or concession of any litigation position or fact by DePuy or any Released Party.

Scope of Agreement

4. The 2017 Extension Agreement is not a separate settlement but incorporates by reference all of the definitions, abbreviations, terms, conditions and procedures of the 2015 ASR Settlement Agreement, as modified below; however, the Part B EIF Program under this 2017 Extension Agreement (including its funding, allocations, accounting, and reductions, if any) shall be entirely based upon and limited to the Qualified U.S. Claimants participating and settling their claims pursuant to this 2017 Extension Agreement and the settlement funds paid pursuant to this 2017 Extension Agreement.
5. Provided this 2017 Extension Agreement is executed by all required signatories as set forth below, the Effective Date of this 2017 Extension Agreement shall be as of March 3, 2017.

Eligibility

6. Eligible Claimants under the 2017 Extension Agreement are those persons who meet the eligibility requirements to be a Qualified U.S. Claimant as set forth in the 2015 ASR Settlement Agreement, except that (1) those persons who would have qualified under the 2013 ASR Settlement Agreement but chose not to join that settlement within the claim deadline may apply to participate in the settlement pursuant to the 2017 Extension Agreement; (2) those persons who would have qualified under the 2015 ASR Settlement Agreement but chose not to join within the claim deadline may apply to participate in the settlement pursuant to the 2017 Extension Agreement; (3) those persons who would not have qualified under the 2015 ASR Settlement Agreement because their qualifying ASR Revision Surgery occurred after January 31, 2015 may apply to participate in the settlement pursuant to the 2017 Extension Agreement, provided their qualifying ASR Revision Surgery occurred

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prior to February 15, 2017, and (4) persons who enrolled in the 2013 ASR Settlement Agreement or 2015 ASR Settlement Agreement and participated in the respective U.S. Program with respect to one hip subject to an ASR Revision Surgery, but retained their legal rights with respect to their other hip, may become an “Eligible U.S. Claimant” under this 2017 Extension Agreement provided all the terms and conditions of this Agreement are met, including but not limited to being subject to an ASR Revision Surgery on the hip with retained legal rights on a date subsequent to the date of the ASR Revision surgery that was the subject of the earlier release but prior to February 15, 2017.

7. Under no circumstances shall any person become eligible to participate in, or receive an award pursuant to, the 2017 Extension Agreement with respect to a hip that was the subject of an award pursuant to the 2013 ASR Settlement Agreement or the 2015 Settlement Agreement.
8. Except a denial based solely upon an ASR revision surgery occurring after January 31, 2015, under no circumstances shall any person who was denied recovery under the 2013 ASR Settlement Agreement or 2015 ASR Settlement Agreement participate in, or obtain an award under the 2017 Extension Agreement for the substantially same claim that had been previously denied. Denial pursuant to this paragraph is not subject to appeal.
9. Under no circumstances shall any person become eligible to participate in, or receive an award pursuant to, the 2017 Extension Agreement with respect to an ASR claim or hip revision surgery that was the subject of a settlement with DePuy separate and apart from the 2013 ASR Settlement Agreement or the 2015 ASR Settlement Agreement and which released DePuy.

Notice to POUStCs

10. The SOC will provide notice to counsel for plaintiffs of this 2017 Program to cover ASR Revision Surgeries that have taken place on or after January 31, 2015 and prior to February 15, 2017 and its other terms. The notice also will state that any enrolling claimants will have no right to participate in the Part B EIF program under the original 2015 ASR Settlement Agreement, which is now closed, but instead, a separate EIF program exists for QUSCs under the 2017 Program, which will be funded exclusively from settlement payments made pursuant to the 2017 Extension Agreement.

2017 Extension Settlement Funding

11. The Part A and Part B settlement funding contributions (and any applicable reductions to those awards or funding obligations) shall be identical to those set forth in the 2015 ASR Settlement Agreement, except as provided below.
12. The Part A Base Award and funding obligation chart for length of implantation set forth at Section 7.1.2 of the 2015 Settlement Agreement is modified to account for any QUSCs under the 2017 Extension Agreement where the length of implantation is 9 years to 10 years, as follows:

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Base Award Reduction for Length of Implantation. For each QUSC involving an ASR Revision Surgery that is accepted by the U.S. Program, DePuy shall fund the Base Award as follows:

Implantation Length from date of ASR Index Surgery to date of ASR Revision Surgery (“X”)	ASR Revision Surgery Base Award Amount Funding
¹ 180 days < X < 5 Years	\$250,000
5 Years ≤ X < 6 Years	\$225,000
6 Years ≤ X < 7 Years	\$200,000
7 Years ≤ X < 8 Years	\$150,000
8 Years ≤ X < 9 Years	\$100,000
9 Years ≤ X < 10 Years	\$50,000

13. The chart at Section 7.1.3.1 of the 2015 Settlement Agreement is modified to add a row to account for any Unrepresented Claimants who become QUSCs entitled to a Part A Base Award with implantation lengths from 9 years to 10 years, as follows:

9 Years ≤ X < 10 Years	\$35,500
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14. Similarly, the chart at Section 7.4.1 of the 2015 Settlement Agreement is modified to add a row to account for Minimum Base Awards for QUSCs with implantation lengths from 9 years to 10 years, as follows:

9 Years ≤ X < 10 Years	\$50,000	\$35,500
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15. For clarity sake, any bilateral cases (a qualifying ASR Revision Surgery on each hip), including persons who had one qualifying ASR Revision Surgery within the qualifying timeframes of the 2013 ASR Settlement Agreement or the 2015 ASR Settlement Agreement, but who did not participate and receive an award pursuant to either of the earlier ASR Settlements and who become a Qualifying U.S. Claimants for both hips under this 2017 Extension, shall be funded by DePuy as follows:

- a. For Bilateral QUSCs whose both bilateral ASR Revision Surgeries occurred after January 31, 2015 but prior to February 15, 2017, DePuy shall fund in the same manner as the 2015 ASR Settlement Agreement: DePuy shall pay the applicable Part A Base Award (subject to reductions) to Part A for the earliest-in-time ASR Revision Surgery, and the Part B EIF contribution of \$59,375 (subject to reduction for Unrepresented Claimants).

¹ Patients who were revised less than 180 days following implantation are not eligible for participation in the 2017 Program.

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- b. For Bilateral QUSC's whose earliest ASR Revision Surgery occurred during the timeframe for either the 2013 or 2015 ASR Settlement Agreement, but who did not participate in either of those settlements, and their later bilateral ASR Revision Surgery occurred after January 31, 2015 but prior to February 15, 2017, but now enrolls in and qualifies under the 2017 Program, DePuy shall fund the Part A Base Award (subject to reductions) for the earliest-in-time qualifying ASR Revision Surgery, and the Part B EIF contribution of \$59,375 (subject to reduction for Unrepresented Claimants) and \$250,000 to Part B for the later-in-time qualifying ASR Revision Surgery (subject to Unrepresented Claimant reduction) and no other amounts.
- c. For Bilateral QUSC's whose earliest ASR Revision Surgery on one hip qualified under the 2013 ASR Settlement Agreement and the bilateral ASR Revision Surgery on the second hip qualified under the 2015 ASR Settlement Agreement and neither ASR Revision Surgery was enrolled in either the 2013 or 2015 ASR Settlement Agreement, but now the Bilateral QUSC enrolls in and qualifies under the 2017 Program, DePuy shall fund the Part A Base Award (subject to reductions) for the qualifying earliest-in-time ASR Revision Surgery, and the Part B EIF contribution of \$59,375 (subject to reduction for Unrepresented Claimants) and \$250,000 to Part B for the later-in-time qualifying ASR Revision Surgery (subject to Unrepresented Claimant reduction) and no other amounts.

2017 Extension Agreement Part B EIF Administration

- 16. The administration, payment criteria, budgeting, programming, accounting and review processes for the EIF program under the 2017 Extension Agreement shall be the same as the prior 2013 and 2015 ASR Settlement Agreements. The claims under this extension will be evaluated using the same standards as the prior 2013 and 2015 ASR Settlement Agreements.
- 17. The SOC will provide a new Part B Award Schedule that will provide the dates for eligibility for payments in the Past and Future Matrices consistent with the timeframes which were used for eligibility under the original 2015 ASR Settlement Agreement Part B EIF Program.
- 18. The SOC and Claims Administrator will provide DePuy with the same EIF accounting and data as DePuy received in the prior 2013 and 2015 Part B EIF Programs. DePuy and the SOC will agree on reasonable dates to fund the Part B EIF Program under the 2017 Program.
- 19. As with prior EIF programs, the 2017 EIF Program, its administration, allocation and budgeting of funds will be entirely the responsibility of the Claims Administrator, Claims Processor, Special Masters (collectively the "Team"), and the SOC pursuant to the terms of this 2017 Extension Agreement and the contemporary Medical Records provided by the QUSC qualifying under this 2017 Extension Agreement.

Cap On Part B EIF Recoveries

20. Comparable claims under this 2017 Part B EIF Program will receive no greater amount of compensation than provided in the 2015 ASR Settlement Agreement Part B EIF program.
21. The prior Part B EIF Programs under the 2013 ASR Settlement Agreement and the 2015 ASR Settlement Agreement contemplated and have represented to those participating QUSCs that there will be a pro rata distribution to EIF claimants (“Final Adjusted Benefit”). The Final Adjusted Benefit payments under the 2017 Program will not exceed the Final Adjusted Benefit payments under the original 2015 ASR Settlement Agreement EIF Program. Consequently, there will be a limit/cap on the EIF individual allocations by category equal to the amounts in the original 2015 ASR Settlement Agreement EIF Program.
22. If there is a monetary surplus balance in the 2017 EIF Program at the conclusion of the 2017 Program after all payments under the 2017 EIF Program including the payment of the maximum Final Adjusted Benefit amounts and administrative costs, the remaining monetary balance shall be refunded to DePuy. The SOC shall jointly prepare a clear procedure to provide to the Claims Administrator to address this accounting.

Filing and Payment of PART A Claims

23. Any QUSC who has the right to participate in this 2017 Extension Agreement may enroll in the program after its effective date and up to the Claims Filing Deadline.
24. A QUSC eligible for a Part A Base Award (subject to applicable reductions) under this 2017 Program will receive the Part A Base Award under the same terms and processing rules as the 2015 ASR Settlement Agreement, as modified by this Agreement. However, any QUSC under the 2017 Program is not entitled to participate in the original 2015 Settlement Agreement Part B EIF Program, which is now closed. Instead, a QUSC under the 2017 Program will have the ability to apply to participate in a separate Part B EIF Program under the 2017 Program, which will be funded exclusively from settlements under the 2017 Extension Agreement.

Contingency Fees

25. This agreement shall not interfere with or limit the contractual rights and obligations as between attorneys and clients. The dates set forth in Section 4.4 of the 2015 ASR Settlement Agreement shall be modified only for purposes of this 2017 Extension Agreement and only for those who participate in the 2017 Program to read February 15, 2017.

Other Modified Dates

26. For only those QUSCs under the 2017 Extension Agreement, the dates and deadlines set forth in 2015 ASR Settlement Agreement continue to apply, except as modified as follows:

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- a. The January 31, 2015 date appearing in the 2015 ASR Settlement Agreement becomes February 15, 2017.
- b. The May 1, 2015 date appearing in the 2015 ASR Settlement Agreement becomes May 5, 2017.
- c. The August 1, 2015 date appearing in the 2015 ASR Settlement Agreement becomes September 4, 2017.

Escrow Agreement

27. It is agreed that this 2017 Extension Agreement will continue to utilize the escrow agreement, forms, procedures, escrow accounts, and QSF established pursuant to the 2015 ASR Settlement Agreement and 2015 ASR Escrow Agreement. However, to the extent any modifications, adjustments, court orders, or other documentation are needed by reason of this 2017 Extension Agreement or those participating under the 2017 Program, the SOC and DePuy shall cooperate in effectuating those modifications.

Other Terms

28. Except as set forth in this letter agreement, all other abbreviations, definitions, terms, conditions, and procedures, including but not limited to choice of law and notice provisions, remain as set forth in the 2015 ASR Settlement Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date set forth below.

ACCEPTED AND AGREED BY DEFENDANT

DePuy Orthopaedics, Inc.

By: _____
Scott R. Ryan
Vice President, Law

Dated: _____

ACCEPTED AND AGREED:

SETTLEMENT OVERSIGHT COMMITTEE

Steven J. Skikos
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Skikos, Crawford, Skikos & Joseph

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2017 ASR Extension Agreement

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